

In re Application of: Conrad et al.  
Serial Number: 09/527,546

REMARKS

The Final Action dated October 4, 2003 has been carefully considered together with the cited references. As discussed in the following remarks, it is believed that the Final Action impermissibly ignored an important claim limitation in rejecting the claims. As a result, the rejections were not properly supported, and the Examiner is respectfully requested to withdraw the rejections and allow the claims as amended.

To facilitate the discussion below, a brief summary of the present invention is provided here. The present invention is directed to the architecture of a computer system performance reporting network that has a reporting server and a plurality of reporting clients. The reporting clients collect system performance data and report the data to the reporting server, which then generates a performance reports based on the collected data. A feature of the reporting architecture of the invention is that the reporting clients are designed to use plug-in modules for collection of performance data. Specifically, each reporting client has a client module that communicates with reporting server to provide the collected data, and one (or more) plug-in module that extends the data collection functionality of the client module. To that end, the plug-in module registers performance metrics for a system component with the reporting client module. In other words, the plug-in module identifies to the client module the performance metrics it is programmed to track. See, Specification pp. 15, 17. During operation, the plug-in module tracks the performance metrics, and passes data on the monitored performance metrics to the client module for reporting to the reporting server. The use of such a plug-in module allows a user the flexibility of defining specific performance metrics to be collected for a given system component.

Turning now to the Final Action, claims 1-19 as originally filed were pending in this application. The same claims were rejected in the first Office Action. In the previous Amendment

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responsive to the first Office Action, applicants pointed out that the claims should be allowable, because the claims specifically call for a plug-in module with specifically recited functionality, and the references relied upon by the Examiner do not teach or suggest an architecture in which such a plug-in module is used by a data reporting client. The Final Action, however, repeated all the rejections of the claims based on the same grounds provided in the first Office Action. In response to applicant's point regarding the plug-in module, the Final Action made the following assertions:

Applicant argues "In rejecting claim 1 ... other cited references" (page 3, paragraph 2- page 4, paragraph 1). More specifically, the applicant argues "The Office Action failed to point to any place in the Desai et al. (USPN 5,781,703) reference that teaches the Intelligent Remote Agents are plug-ins." The argument is not persuasive because the applicant assumes a definition for the term plug-in but the definition is not included specifically in the limitations of the claims. The fact that Intelligent Remote Agents (IRAs) may be defined as computer programs does not distinguish the claims from the references. A plug-in of any type will be a piece of software, as are the IRAs. Additionally, IRAs are pieces of software that run to support the operation of the client of its component and multiple IRAs can be running on an individual client or its component at any time, this makes it a type of plug-in. The reference anticipates the current invention as claimed and describes in the grounds of rejection below.

Applicants respectfully but strongly traverse the rejections. First of all, the Final Action appeared to be asserting that the term "plug-in" in the claims is to be ignored. If that was indeed the position of the Final Action, the Examiner is respectfully requested to confirm it for purposes of presenting a clear issue for appeal. Applicants submit that it is impermissible for the Examiner to simply choose to ignore an important claim limitation when the cited references fail to teach or suggest that limitation. The Final Action asserted that "the applicant assumes a definition for the term plug-in but the definition is not included specifically in the limitations of the claims." Such an assertion cannot justify ignoring the limitation for at least two reasons. First, the meaning of "plug-in" is well known in the computer art to mean an auxiliary program that works with a major software package to enhance its capability. *See, e.g.*, the definition of "plug-in" at

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<http://www.techweb.com/encyclopedia/>. Thus, the argument of the Final Action that the term could be ignored because the claims allegedly had no specific limitations defining the term is untenable. Second, contrary to the assertion of the Final Action, the claims do specifically "define" what the plug-in is by reciting its functionality in relationship with the reporting client. Specifically, the claims all recite that the plug-in module registers its performance metrics with the reporting client, and passes data on the performance metrics it has tracked to the reporting client for reporting to the reporting server. Even if the Final Action chose to ignore the meaning of "plug-in" and treat the term "plug-in module" just as any "module," it remains that the Desai reference has no teaching regarding "registering" performance metrics with the reporting client and "passing" the performance metrics data to the reporting client. In this regard, it should be noted that in the Desai system it is the Proxy Controller 18 on the reporting server that specifies the items of performance data to be collected. Desai Col. 6, lines 10-20.

To further clarify the role of the "plug-in module" and to highlight the differences between the system of Desai and the architecture of the claimed invention, applicants have amended the claims to recite that the reporting client has a "client module" and a "plug-in module," and that the plug-in module is for use with the client module to track performance metrics data. Support for the reporting client having a client module and a plug-in module is found in, for instance, page 15 of the specification, and no new matter has been added. Applicants believe that the amendments should address the Final Action's concern that "the definition [of plug-in] is not included specifically in the limitations of the claims," and the Examiner is respectfully requested to enter the amendments. In this regard, since the amendments are made only to clarify the well-known meaning of a "plug-in," applicants submit that the amendments do not change the nature of the claims, and as a result no new search by the Examiner would be necessary. As applicants intended to point out in the previous Amendment, the Intelligent Remote Agent of Desai corresponds to a reporting client

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module, not a plug-in module. Desai has no teaching or suggestion regarding the use of a plug-in module to enhance the data collection capability of a client module of a performance reporting system. Accordingly, Desai is not an anticipatory reference for the claimed invention, and the claims as amended should be allowable over Desai by itself or in combination with the other references.

Conclusion:

In view of the foregoing, this application is considered in good and proper form for allowance, and the Examiner is respectfully requested to enter this Amendment and pass this application to issue. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,

  
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